

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'SMC', KOLKATA

[Before Dr. Manish Borad, Accountant Member &
Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 446/Kol/2023
Assessment Year : 2018-19

Ranjit Pal	Vs.	ITO, Ward-25(1), Kolkata
PAN: AJPPP 9338 N		
Appellant		Respondent

Date of Hearing	03.07.2023
Date of Pronouncement	11.07.2023
For the Assessee	Shri S. Mazumdar, AR
For the Revenue	Shri Kausik Kumar Das, Addl. CIT

ORDER

Per Sonjoy Sarma, JM:

This appeal of the assessee for the assessment year 2018-19 is directed against the order dated 10.03.2023 passed by the Id. Commissioner of Income-tax Appeals, NFAC, Delhi [hereinafter referred to as 'the Id. CIT(A)']. The assessee has raised the following grounds of appeal:

"1. That on the facts and in the circumstances of the case, the assessing officer/appellate Authority went wrong in charging Section 144B of the Income Tax Act, 1961 although all documents were submitted at the time of hearing / appeal and all compliances were made both online and manual, which is unjust and arbitrary.

2. That on the facts and in the circumstances of the case, the assessing officer/appellate authority went wrong in interpreting the Section 56(2)(x) of the Income Tax Act, 1961, where Registration of Joint Development Agreement and Registration of Power of Attorney does not cover where there is no transaction of money and treating the difference of Set Forth Value and the Market Value as an Income from other Source which is unjust and arbitrary

3. That on the facts and in the circumstances of the case, the assessing officer/appellate authority added the difference of value without getting the deed copies in the Assessment Stage but were

duly submitted at the time of Appeal/One Joint Development Agreement and One Power of Attorney Registered by the Assessee] which are to be considered on the Grounds that only Registration of Development Agreement and Power cannot be Treated as Sale of Property and to vacate the demand;

4 That on the facts and in the circumstances of the case, the assessing officer went wrong in imposing Penalty u/s.270A of the Income Tax Act,1961, on the ground that the daily cash deposited into Bank was from Undisclosed Source of Income.

5. That the appellant craves leave to file any additional ground or amend the ground already taken either before or at the time of hearing of the appeal.”

2. The assessee has also raised following additional grounds of appeal:

“1. That on the facts and the circumstances of the case, the Appellate Authority did not consider the Additional Documents submitted the time of appeal, which is not Joint Development Agreement Copy dated 21.04.2017 which could not be submitted at the time of scrutiny assessment hearing, which is unjust and arbitrary;

2. The assessee craves leave to file the copy of the registered joint development agreement which is a part and parcel of this appeal before the Hon’ble Income Tax Appellate Tribunal.”

3. Brief facts of the case are that assessee filed its return of income for the A.Y. 2018-19 on 31.12.2018 by declaring total income of Rs. 9,64,110/-. The return of the assessee was processed u/s 143(1) of the Act by CPC. Subsequently, notices u/s 143(2) and 142(1) of the Act were issued to the assessee and it was duly served through online ITBA and mail ID provided by the assessee. In response to the notices, the assessee has furnished various documents before the AO. However out of 4 registered deed as reported in 26AS in return of income of assessee, he produced only 3 registered deed before the AO at the time of assessment

proceeding. Due to this fact, the ld. AO difference of stamp value property and market value of property was disallowed to the tune of Rs. 18,88,013/- in the hands of assessee and same was added to the income of the assessee.

4. Dissatisfied with the above order, assessee preferred and appeal before the ld. CIT(A) where assessee submitted additional documents which the assessee failed to produce at the time of scrutiny proceeding before the ld. AO. However, the ld. CIT(A) did not consider such documents furnished by the assessee and simply sustained the order passed by the AO.

5. Aggrieved by the above order, assessee is in appeal before this Tribunal. At the outset, ld. AR submitted before us that at the time of scrutiny proceeding before the Assessing Officer, the assessee has failed to furnish the copy of Joint Development Agreement dated 21.04.2017 and for this reason addition of Rs. 18,88,013/- was made in the hands of assessee. The ld. AR placed before us a paper book containing pages 1 to 32 to substantiate his claim by producing the copy of Joint Development Agreement dated 21.04.2017 and pray before us to remand back the whole issue to the ld. AO to examine the whole issue involved by considering the additional documents furnished by the assessee.

6. On the other hand, ld. DR supported the order passed by the authorities below.

7. We after hearing the rival submission of the parties and examining the facts of the case, we notice that the alleged copy of

Joint Development Agreement dated 21.04.2017 the assessee has not been able to place before the AO at the time of scrutiny assessment proceeding and later on assessee has placed the same before the ld. CIT(A). However, the additional documents placed by the assessee before the ld. CIT(A) did not consider as it reflected from the impugned order passed by the ld. CIT(A). Therefore, under these facts and circumstances, we restore the matter in the instant appeal to the file of ld. AO for de novo in accordance with law after considering the additional documents and submission made by the assessee by providing reasonable opportunity of being heard. The assessee is also directed to remain vigilant and file necessary documents in support of these grounds and should not take further adjournment unless otherwise required for reasonable cause. In case after providing sufficient opportunity to the assessee, there is no compliance before the ld. AO then the ld. AO can proceed to pass the order in accordance with law.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 11.07.2023.

Sd/-

Sd/-

(Manish Borad)
Accountant Member

(Sonjoy Sarma)
Judicial Member

Dated: 11.07.2023

Biswajit

Copy of the order forwarded to:

1. Appellant- Ranjit Pal, 01, Ramchandrapur, Thakurani Chawk,
Mahatma Gandhi Road, Kalitala, Kolkata-700104.
2. Respondent- ITO, Ward-25(1), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata